

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Evan Tims	Team: Squad #05	CCRB Case #: 202000487	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 01/21/2020 5:00 AM	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 120	18 Mo. SOL 7/21/2021	EO SOL 3/7/2022	
Date/Time CV Reported Tue, 01/21/2020 8:05 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/21/2020 8:05 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Roberto Pagan	1731	946089	WARRSEC
2. DT3 Salvator Granata	195	936692	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Roberto Pagan	Abuse: Detective Roberto Pagan threatened to arrest § 87(2)(b)	§ 87(2)(b)
B.DT3 Salvator Granata	Abuse: Detective Salvator Granata threatened to arrest § 87(2)(b)	§ 87(2)(b)
C.DT3 Roberto Pagan	Abuse: Detective Roberto Pagan threatened to damage § 87(2)(b) property.	§ 87(2)(b)
D.DT3 Salvator Granata	Abuse: Detective Salvator Granata threatened to damage § 87(2)(b) property.	§ 87(2)(b)
E.DT3 Roberto Pagan	Abuse: Detective Roberto Pagan threatened to notify Administration for Children's Services.	§ 87(2)(b)
F.DT3 Roberto Pagan	Abuse: Detective Roberto Pagan damaged § 87(2)(b) property.	§ 87(2)(b)
G.DT3 Salvator Granata	Abuse: Detective Salvator Granata damaged § 87(2)(b) s property.	§ 87(2)(b)

## Case Summary

On January 21, 2020, § 87(2)(b) filed this complaint by phone with the CCRB.

On January 21, 2020, at approximately 5 a.m., at § 87(2)(b) § 87(2)(b) in Staten Island, Detective Roberto Pagan and Detective Salvator Granata of Staten Island Warrants arrived at § 87(2)(b) apartment in search of her former partner, § 87(2)(b). Det. Pagan and Det. Granata spoke to § 87(2)(b) from the other side of her apartment door. They both threatened to arrest § 87(2)(b) if she did not open the door (**Allegations A-B: Abuse of Authority**, § 87(2)(g)). Det. Pagan and Det. Granata also threatened to make forced entry into the apartment (**Allegations C-D: Abuse of Authority**, § 87(2)(g)). Det. Pagan sent text messages to § 87(2)(b) from outside her door and reiterated his threats to arrest her and to break down her door (**Allegations A & C**). Det. Pagan allegedly threatened to report § 87(2)(b) to ACS (**Allegation E: Abuse of Authority**, § 87(2)(g)). Det. Pagan and Det. Granata allegedly damaged the apartment door by banging on it (**Allegations F-G: Abuse of Authority**, § 87(2)(g)).

Det. Granata and Det. Pagan were not equipped with BWCs at the time of the incident. The investigation obtained audio recordings from § 87(2)(b) which captured some of the statements the officers made during the incident (**BR01**, summarized in **BR02**). The investigation also obtained CCTV footage from § 87(2)(b) building, which captured the officers moving throughout the building but did not show them knocking on her apartment door (**BR11-12**).

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Detective Roberto Pagan threatened to arrest § 87(2)(b).**

**Allegation (B) Abuse of Authority: Detective Salvator Granata threatened to arrest § 87(2)(b).**

**Allegation (C) Abuse of Authority: Detective Roberto Pagan threatened to damage § 87(2)(b) property.**

**Allegation (D) Abuse of Authority: Detective Salvator Granata threatened to damage § 87(2)(b) property.**

It is undisputed that Det. Pagan and Det. Granata threatened to arrest § 87(2)(b) and threatened to make forced entry into her apartment if she did not open the door for them.

§ 87(2)(b) provided testimony to the CCRB by phone when she filed the complaint (**BR13**), during an initial phone statement (**BR03**), during an in-person interview (**BR04**), and during a follow-up phone call (**BR08**). She generally recounted that the officers banged on her door for an extended period of time, referred to her by name, threatened multiple times that everyone inside the apartment would be arrested if the door was not opened, and threatened to break down the door. § 87(2)(b) kept the lights off in her apartment and did not speak to the officers at any point. Det. Pagan also began repeatedly texting and calling § 87(2)(b) cellphone. She did not answer his calls or respond to his text messages. § 87(2)(b) testified to the CCRB that she was alone in the apartment with her dog, that she had broken up with § 87(2)(b) at least eight months before the incident, and that § 87(2)(b) had not been to her apartment since January 2019.

§ 87(2)(b) began filming with her phone partway through the incident, and she provided four video clips to the investigation (**BR01**). The footage is pitch black but does capture the audio of the officers banging on the door and making statements from the hallway, including that everyone in the apartment would be arrested once ESU officers broke down the door. The officers also

referenced § 87(2)(b) by name, and they explained that they checked the cameras and saw that § 87(2)(b) was in the apartment with § 87(2)(b). § 87(2)(b) can be heard whispering in the footage – she testified to the CCRB that she called her lawyer during the incident and was whispering to him.

§ 87(2)(b) also provided a screenshot of the text messages from Det. Pagan (**BR01**, “image00215”). Det. Pagan wrote, “Don’t let us take the door down,” and, “Everyone will be arrested if you do not open the door.”

An incident report from the building’s security office showed that § 87(2)(b) was listed as a “co-applicant” for the apartment, and that the officers were at the building for approximately one hour (**BR15**). The report makes no mention of Det. Pagan and Det. Granata reviewing any CCTV footage from the building.

At the time of the incident, Det. Pagan possessed an active I-Card naming § 87(2)(b) as a suspect for criminal contempt in the first degree (**BR05**). The I-Card was issued nine days before the date of the incident. The I-Card noted that § 87(2)(b) was a “suspect only,” and that there was no probable cause to arrest him. The I-Card listed § 87(2)(b) as residing at § 87(2)(b) address and apartment number. In addition, the investigation obtained the DD5s documenting Det. Pagan’s search for § 87(2)(b) (**BR16**), which show that he learned from a detective at the 121<sup>st</sup> Precinct Detective Squad that there was probable cause to arrest § 87(2)(b) eight days before the date of the incident. Det. Pagan’s DD5 for the visit to § 87(2)(b) residence states that security at the building confirmed that § 87(2)(b) lived in her apartment, that he heard an unknown individual walking around inside the apartment, and that he knocked on the door numerous times with negative results. Det. Pagan arrested § 87(2)(b) at another location seven days later.

In his statement to the CCRB, Det. Pagan confirmed that he knew during the incident that the I-Card for § 87(2)(b) did not give him sufficient justification to forcibly enter the apartment (**BR06**). He also confirmed that he was not aware of any other active warrants or I-Cards for § 87(2)(b) or for anyone else associated with § 87(2)(b) address. He recounted that he showed a photograph of § 87(2)(b) to a building security guard, and that the guard confirmed § 87(2)(b) lived in § 87(2)(b) apartment and had not left the building. From outside the apartment door, Det. Pagan could hear someone walking inside the apartment, but he did not hear anything else. Det. Pagan testified that he had no indication that anyone inside the apartment was at risk of physical harm.

Det. Pagan confirmed that the text messages provided by § 87(2)(b) were accurate. He also reviewed the video footage, and he confirmed that the clips variously captured him saying, “Everyone will be arrested once ESU breaches this door,” and, “We’re gonna open the door then.” When asked to explain why he made the threat of arrest, Det. Pagan described the threat as subterfuge in order to convince whomever was inside the apartment to open the door. He also stated generally that officers could obtain a warrant to arrest everyone inside if an I-Card was not sufficient, though he noted this would be a rare occurrence. When asked to explain his reference to having ESU break down the door, Det. Pagan confirmed that he did not have the authority to direct ESU to make forced entry based solely upon an I-Card. He said it was “possible” that his reference to ESU was also subterfuge.

Det. Granata similarly testified that he knew that the I-Card did not give the officers sufficient basis to make forced entry into the apartment (**BR07**). He confirmed that Det. Pagan showed § 87(2)(b) photo to a security guard, and that the guard saw § 87(2)(b) come home earlier that night and had not seen him leave. Det. Granata never heard any noise from inside the apartment and did not know if anyone was in the apartment. Det. Granata also confirmed that he did not believe anyone in the apartment was committing an arrestable offense.

Det. Granata described threats to break down a door, and threats to arrest everyone inside if they did not open a door, as subterfuge techniques that he sometimes uses to convince occupants of an apartment to comply and open a door. He reviewed the video footage and confirmed that it captured him saying, “We don’t want to have to threaten you or blast your door down,” and, “They’re gonna knock the door down and everyone’s gonna get put in handcuffs.” He also confirmed that Det. Pagan referenced ESU breaking down the door. Det. Granata admitted that he had no reason to make these threats except as subterfuge in order to gain compliance. He confirmed that the officers would have needed exigent circumstances, such as someone screaming inside the apartment, in order to make forced entry or to request that ESU do so.

Officers may not compel a suspect to open a residence door by threatening to violate the Fourth Amendment. An announcement that officers will break down the door is one such unlawful threat. *People v. Garvin*, 30 N.Y.3d 174 (2017) (BR17).

Det. Pagan and Det. Granata admitted that they made the threats of arrest and the threats to break down the door in the hope of inducing whomever was inside the apartment to open the door, and that they knew at the time that they did not have a sufficient basis to make forced entry or to arrest

§ 87(2)(b) § 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

**Allegation (E) Abuse of Authority: Detective Roberto Pagan threatened to notify Administration for Children's Services.**

**Allegation (F) Abuse of Authority: Detective Roberto Pagan damaged § 87(2)(b) property.**

**Allegation (G) Abuse of Authority: Detective Salvator Granata damaged § 87(2)(b) property.**

§ 87(2)(b) did not recount that either officer mentioned the Administration for Children’s Services (ACS) in her initial complaint or in her initial telephone statement. During her in-person interview, she recounted that, at some point during the incident, a child in a neighboring apartment began to cry. Det. Pagan then said through the door that § 87(2)(b) children would be taken by ACS, ostensibly because he mistakenly believed that the crying was coming from within § 87(2)(b) apartment.

None of the video clips captured either officer making any reference to ACS, nor did Det. Pagan mention ACS in his text messages.

§ 87(2)(b) noted when she filed the complaint that the officers tampered with her lock and rendered it nonfunctional. In a phone statement, she reiterated that the lock was broken, and noted that door was bent inwards but still closed properly. In a follow-up call, she explained that the door’s electronic lock still worked, but that the officers broke the secondary manual locking mechanism. She also stated that the bottom half of her door was bent inward approximately half an inch to an inch.

§ 87(2)(b) provided photographs which apparently showed the slight bend in the door, as well as scuffs and marks on the door which the officers allegedly caused by banging on it (BR01).

Det. Pagan denied that he or Det. Granata ever made any reference to ACS during the incident. Det. Granata could not recall if they did so. Both officers acknowledged that they slapped the door with

their hands in order to awaken anyone inside the apartment, but both denied that they struck the door with anything other than their hands. They denied that they damaged the door, and denied causing the slight bend seen in § 87(2)(b) photographs.

§ 87(2)(g)

§ 87(2)(g)

Although § 87(2)(b) photographs did appear to show a slight bend at the point where the door met the doorframe, neither that nor the scuffs on the door were

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR09).
- Detective Granata has been a member of the NYPD for 16 years, and has been subject in nine CCRB complaints and 12 allegations, three of which were substantiated:
  - 201902171 involved two substantiated allegations of entry of premises against Det. Granata. The Board recommended Formalized Training, and the NYPD imposed Formalized Training.
  - 201800734 involved a substantiated discourtesy allegation against Det. Granata. The Board recommended Charges. Det. Granata pleaded guilty or was found guilty, and the NYPD imposed a penalty of three forfeited vacation days.
- Detective Pagan has been a member of the NYPD for 13 years, and has been subject in three prior CCRB complaints and seven allegations, two of which were substantiated:
  - 201800734 involved substantiated allegations of entry and search of premises against Det. Pagan. The Board recommended Charges. Det. Pagan pleaded guilty or was found guilty, and the NYPD imposed a penalty of seven forfeited vacation days.
  - Det. Pagan is also a subject in one complaint and one allegation resulting from an incident which took place after the incident under investigation in this case (202001486). CTS does not yet contain a record of the outcome of that complaint.

#### **Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- As of June 30, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR10).

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 5

Investigator:	<u>DG</u>	<u>IM Giansante for Inv. Tims</u>	<u>June 1, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Daniel Giansante</u>	<u>IM Daniel Giansante</u>	<u>June 1, 2021</u>
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**CCRB Case # 202000487**

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date